THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.19476 and 19479 of 2006

Dated: 20-09-2006

Between:

Satti Sathi Reddy and others.

..... PETITIONERS

AND

The Sub Collector, Rajahmundry, and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION Nos.19476 and 19479 of 2006

COMMON ORDER:

Petitioner Nos.2 to 4 are sons, petitioner No.5 is son-in-law and respondent No.2 in both the writ petitions are brothers of petitioner No.1. These writ petitions are filed seeking writs of Mandamus declaring the action of respondent No.1 in entertaining appeal filed by respondent No.2 in reference No.H/3640/05 dated 26-08-2006 after lapse of about four and half years as illegal and arbitrary.

It is the case of the petitioners that there was family partition among petitioner No.1 and his brothers (respondent No.2 in both the writ petitions) in 1982. Thereafter, the petitioners approached the Mandal Revenue Officer (MRO), Rajanagaram, for necessary mutation and pattadar passbooks. MRO enquired into the matter and issued proceedings/order dated 28-05-2001 to make necessary entries while holding that respondent No.2 obtained passbooks for an extent of Acs.5.27 cents fraudulently. According to the petitioners, order of MRO has become final and no appeal was filed by respondent No.2. However, respondent No.2 approached respondent No.1 and filed appeal in November, 2005, after about four and half years without seeking any condonation of delay. It is pointed out that under Section 5(5) of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (the Act, for brevity) an appeal ought to have been filed within sixty days. Therefore, the petitioners contend that the action of respondent No.1 in entertaining the appeal filed by respondent No.2 under Section 5(5) of the Act is without jurisdiction and illegal.

After hearing the learned counsel for the petitioners and the learned Assistant Government Pleader for Revenue (General), this Court is of the considered opinion that as the appeal is pending, it is always open to the petitioners to raise objection as to the maintainability of the appeal on the ground of delay. Indeed in ground No.8 of their objections to the appeal filed by respondent No.2, they raised such ground. Therefore, it would be in the interests of the parties, if respondent No.1 takes up the issue of limitation as a preliminary issue and decides the matter. On this ground alone this Court is not inclined to interfere at this stage.

The writ petitions are, therefore, disposed of directing respondent No.1 to consider preliminary issue of limitation at the outset and then proceed further. The petitioners may approach respondentNo.1 with a copy of this order. No costs.

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(**V.V.S.RAO, J**)

20th September, 2006
ghn